



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52[EPA-R07-OAR-2022-0419; FRL-9830-02-R7]**

**Air Plan Approval; Missouri; St. Louis Area Vehicle Inspection and Maintenance Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve, through parallel processing, revisions to the Missouri State Implementation Plan (SIP) relating to the St. Louis area's vehicle Inspection and Maintenance (I/M) Program received on November 12, 2019, March 2, 2022, and May 24, 2022. In the submissions, Missouri requests the EPA's approval of revisions to a regulation and related plan that implement the St. Louis area's Inspection and Maintenance program called, Gateway Vehicle Inspection Program (GVIP). We are approving Missouri's removal of vehicles registered in Franklin County, unless the vehicle is primarily operated in the rest of the area, from the Gateway Vehicle Inspection Program. The revisions to this rule include amending the rule exemption section for vehicles subject to the rule, removing unnecessary words, amending definitions specific to the rule, updates due to technology changes, and other minor edits. These revisions do not interfere with attainment or maintenance of any National Ambient Air Quality Standard (NAAQS), reasonable further progress, or other Clean Air Act (CAA) requirements. Approval of

these revisions will ensure consistency between state and federally approved rules.

**DATES:** This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2022-0419. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through [www.regulations.gov](http://www.regulations.gov) or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

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**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refer to EPA.

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## **I. Parallel Processing**

The EPA is using parallel processing to approve this SIP. Parallel processing refers to a process that utilizes concurrent state and federal proposed rulemaking actions, consistent with the provisions of 40 CFR part 51, appendix V. Generally, the state submits a copy of the proposed regulation or other revisions to the EPA before conducting its public hearing and completing its public comment process under state law. The EPA reviews this proposed state action and prepares a notice of proposed rulemaking (NPRM) under federal law.<sup>1</sup> If, after the state completes its public comment process and after the EPA's public comment process, the state changes its final submittal from the proposed submittal, the EPA evaluates those changes and decides whether to publish another NPRM in light of those changes or to proceed to taking final action on its proposed action and describe the state's changes in its final rulemaking action. Final rulemaking action by the EPA only occurs after the final submittal has been adopted by the state and formally submitted to the EPA.

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<sup>1</sup> Although not the case in our proposed rulemaking on May 19, 2022, in some instances, the EPA's NPRM is published in the *Federal Register* during the same time frame that the state is holding its public hearing and conducting its public comment process. The state and the EPA then provide for concurrent public comment periods on both the state action and federal action.

Missouri provided its state-approved nonregulatory changes to the EPA on November 12, 2019. On March 2, 2022, Missouri submitted a supplemental revision, containing the not yet finalized revised regulation and supplemental emission controls to the EPA. Missouri's public comment process was completed for this revision, but the implementing state regulation in the submittal had not been formally submitted by the state to the EPA at the time of our May 19, 2022, proposed approval.

In accordance with the parallel processing provisions in section 2.3.1 of 40 CFR part 51, appendix V, the State has been provided an opportunity to consider the EPA's comments prior to submission of a final plan for the EPA's review and has submitted a schedule for final submittal of the state regulation. Specifically, Missouri's schedule included publication of the order of rulemaking in the Missouri Register on April 15, 2022. The final state regulation was published in Missouri's Code of State Regulations (CSR) on April 30, 2022 and became effective on May 30, 2022.

Because the State had satisfied all requirements for parallel processing concerning the March 2, 2022, submittal, the EPA proposed to approve the submittal through parallel processing on May 19, 2022.

Missouri formally submitted the final regulation package to the EPA on May 24, 2022. The May 24, 2022, submittal contained two changes to 10 CSR 10-5.381. The changes are:

1. In 10 CSR 10-5.381 (1)(B)8. Missouri changed "biennial" to "biennially". The sentence in the March 2, 2022 submittal was "Motor vehicles driven fewer than twelve thousand (12,000) miles **biennial** that receive a mileage based exemption described in subsection (4)(H) of this rule;" (emphasis added). The sentence now is "Motor vehicles driven fewer than twelve thousand (12,000) miles **biennially** that receive a mileage based exemption described in subsection (4)(H) of this rule;" (emphasis added).
2. 10 CSR 10-5.381 (2)(O) Missouri moved "pounds" behind the numeric version of 8,500. The sentence in the March 2, 2022 submission was "Light Duty Truck (LDT)—Any motor vehicle rated at eight thousand five hundred **pounds** (8,500)..." (emphasis added). The sentence is now "Light Duty Truck (LDT)—Any motor vehicle rated at eight thousand five hundred (8,500) **pounds** ..." (emphasis added).

The EPA has evaluated these revisions and finds them to be grammatical in nature, not substantially changing the purpose and intent of the rule, and not requiring another proposal or comment period. Therefore, in this final action, the EPA is approving these changes to the rule.

## **II. History and Current Status of St. Louis Area Air Quality**

### *A. The Ozone NAAQS*

The St. Louis, Missouri-Illinois bi-state area, which has been designated as nonattainment for several Ozone NAAQS, has historically included the counties of Franklin, Jefferson, St. Charles, and St. Louis, and St. Louis City in Missouri, and the counties of Madison, Monroe and St. Clair in Illinois (hereafter referred to as the St. Louis area unless otherwise noted). For all Ozone NAAQS, except for the 2015 Ozone NAAQS, the St. Louis area has been redesignated to attainment as described in this section.

On May 12, 2003, the EPA redesignated the St. Louis area from Serious nonattainment to attainment for the 1979 Ozone NAAQS. (68 FR 25418). On June 15, 2005, the EPA revoked the 1979 1-hour Ozone NAAQS for all areas except the 8-hour Ozone nonattainment early action compact (EAC) areas. (70 FR 44470). The St. Louis area did not participate in the EAC and therefore, the 1-hour standard was revoked for all areas in Missouri effective June 15, 2005.

On February 20, 2015, the EPA redesignated the St. Louis area from Moderate nonattainment to attainment for the 1997 8-hour Ozone NAAQS. (80 FR 9207). On March 6, 2015, the EPA revoked the 1997 8-hour Ozone NAAQS. (80 FR 12264).

On September 20, 2018, the EPA redesignated the St. Louis area from Moderate nonattainment to attainment and approved a maintenance plan for the 2008 8-hour Ozone NAAQS. (83 FR 47572). The 2008 8-hour Ozone NAAQS has not been revoked.

On November 16, 2017, the EPA designated all areas of Missouri except the St. Louis area as attainment/unclassifiable for the 2015 8-hour Ozone NAAQS. (82 FR 54232). On April 30, 2018, the EPA designated Boles Township of Franklin County, St. Charles County, St. Louis County, and St. Louis City as Marginal nonattainment for the 2015 Ozone NAAQS. (83 FR 25776). As part of that same action, the EPA designated Jefferson County and the remaining portion of Franklin County as attainment/unclassifiable. On July 10, 2020, the District of Columbia Circuit Court remanded the Jefferson County designation (among other designations) back to the EPA. The Court upheld the EPA's designation of Boles Township as nonattainment and the remainder of Franklin County as attainment/unclassifiable.<sup>2</sup> In response to the Court remand, the EPA revised the Jefferson County designation to nonattainment on May 26, 2021. (86 FR 31438).

#### *B. Other NAAQS*

On March 29, 1999, the EPA redesignated a portion of St. Louis County and St. Louis City from nonattainment to attainment for the 1971 Carbon Monoxide (CO) NAAQS (64 FR 3855).

On August 3, 2018, the EPA redesignated Franklin County, Jefferson County, St. Charles County, St. Louis County, and St.

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<sup>2</sup> *Clean Wisconsin v. EPA*, 964 F.3d 1145 (D.C. Cir. 2020)

Louis City from nonattainment to attainment for the 1997 Annual Fine Particulate Matter (PM<sub>2.5</sub>) NAAQS (83 FR 38033).

A portion of Jefferson County is currently designated nonattainment for both the 2008 and 1978 Lead NAAQS. This nonattainment area is currently monitoring compliance with both the 1978 and 2008 Lead NAAQS.<sup>3</sup> The rest of the St. Louis Area is designated attainment/unclassifiable for both the 2008 and 1978 Lead NAAQS.

On January 28, 2022, the EPA redesignated a portion of Jefferson County from nonattainment to attainment for the 2010 1-hour SO<sub>2</sub> NAAQS (87 FR 4508). The rest of the St. Louis Area is designated as either attainment or unclassifiable for the 2010 SO<sub>2</sub> NAAQS.

The St. Louis Area is designated attainment/unclassifiable for all other NAAQS.

### **III. Background of Missouri's I/M Program**

Under sections 182 (b) (4) and (c) (3) of the CAA, vehicle I/M programs are required for areas that are classified as Moderate or above nonattainment for Ozone. As a result, Missouri has previously submitted, and the EPA has previously approved into the SIP an I/M program for the St. Louis Area of Franklin County, Jefferson County, St. Charles County, St. Louis County,

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<sup>3</sup> See file titled Herculaneum AQS Report in Docket.



and St. Louis City.<sup>4</sup> At the time of the program's inception, the program was based on tailpipe testing. In 2000, the EPA approved Missouri's switch to Onboard Diagnostic testing for the same geographic area, consistent with our regulations and section 182 of the CAA.<sup>5</sup> In 2015, the EPA approved revising and recodification of the I/M program.<sup>6</sup>

#### **IV. What is being addressed in this document?**

The EPA is approving, through parallel processing, revisions to the Missouri SIP received on November 12, 2019, March 2, 2022, and May 24, 2022. In the November 12, 2019, submission, Missouri requested the EPA's approval of revisions to the vehicle I/M Program also known as GVIP, for the St. Louis area. The revisions remove both Franklin and Jefferson Counties from the GVIP; however, the EPA is only taking action on the removal of Franklin County from the GVIP in accordance with a subsequent request from Missouri.

At the time of the November 12, 2019 submission, Missouri had not yet revised the implementing GVIP regulations nor provided supplemental emission controls to offset the emission increases resulting from ceasing vehicle emission inspections in the Boles Township portion of the nonattainment area, in accordance with CAA section 110(1), 42 U.S.C. 7410(1).

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<sup>4</sup> 50 FR 32411, August 12, 1985.

<sup>5</sup> 65 FR 62295, May, 18, 2000.

<sup>6</sup> Missouri recodified the I/M regulations from 10 CSR 10-5.380 to 10 CSR 10-5.381. 80 FR 11323, March 3, 2015.

At the time of Missouri's November 12, 2019, submission, Jefferson County was designated as attainment/unclassifiable for the 2015 Ozone NAAQS. When the EPA designated Jefferson County to nonattainment on May 26, 2021 (86 FR 31438), Missouri requested that the EPA act on the removal of Franklin County from the GVIP plan and postpone action on the removal of Jefferson County from the GVIP plan by letter dated December 6, 2021.<sup>7</sup> As stated in the EPA's comments during Missouri's public notice on their draft rulemaking, Missouri would need to provide further supplemental emission controls for the EPA to be able to propose approving the removal of I/M in Jefferson County as long as the County remains designated nonattainment.<sup>8</sup> The EPA's longstanding position is that the implementing rule revision and supplemental emission controls, for the nonattainment area, are needed for the EPA's approval. This position is consistent with the CAA, our implementing regulations, and our previous approvals of I/M removal across the nation. Additionally, in response to comment from the EPA on the draft rulemaking, Missouri limited the implementing regulation's exemption to Franklin County as opposed to exempting both Franklin and Jefferson Counties.

On March 2, 2022, Missouri submitted a draft SIP revision supplementing the November 12, 2019, submittal, along with a parallel processing request. The March 2, 2022, submittal

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<sup>7</sup> Missouri's December 6, 2021 letter to EPA is included in the docket for this action.

<sup>8</sup> A summary of the EPA's comments and Missouri's response can be found in the docket for this action in the November 12, 2019 submittal.

included both the revised implementing rule, 10 CSR 10-5.381, and supplemental emission controls to offset the increased emissions in the Boles Township portion of Franklin County that is designated as nonattainment for the 2015 Ozone NAAQS. The revision to 10 CSR 10-5.381 adds an exemption for vehicles registered in Franklin County from the program unless the vehicles are primarily operated in the remainder of nonattainment area. The revisions to this rule include amending the rule exemption section for vehicles subject to the rule, removing unnecessary words, amending definitions specific to the rule, and other minor edits. The EPA is approving the portion of the November 12, 2019, March 2, 2022, and May 24, 2022, GVIP Plan relating to Franklin County, St. Charles County, St. Louis County, and St. Louis City, by approving the removal of Franklin County from the I/M Program, and fully approving the revisions to 10 CSR 10-5.381.

In accordance with Missouri's December 6, 2021, letter, the EPA is not taking action on Missouri's November 12, 2019, request to remove Jefferson County from the I/M Program for the St. Louis Area. Missouri states in the 2021 letter that it views the requests in the 2019 SIP revision to remove inspection and maintenance requirements in Franklin and Jefferson Counties as severable. The EPA agrees the removal of inspection and maintenance requirements in Franklin and Jefferson Counties are severable. Missouri also states in the letter that the implementing regulation, 10 CSR 10-5.381, continues to require

the inspection and maintenance program to operate in Jefferson County.

As a result of this action, the nonregulatory 1999 Implementation Plan for the Missouri Inspection and Maintenance Program, originally approved into the SIP on May 18, 2000, 65 FR 31480, remains approved into the SIP for Jefferson County. The EPA approves the nonregulatory Inspection and Maintenance Program for the St. Louis Area—2019 Revision, into the SIP, which removes requirements for Franklin County. The EPA also approves the revisions to 10 CSR 10-5.381.

The EPA's analysis of the revisions can be found in the "What is the EPA's analysis of Missouri's SIP request?" section of our proposed approval and in the technical support document (TSD), which is included in this docket.<sup>9</sup>

**V. Have the requirements for approval of a SIP revision been met?**

Both the 2019 and 2022 State submissions have met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submissions also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on the November 12, 2019 SIP revision from July 29, 2019 to August 29, 2019 and on the March 2, 2022<sup>10</sup> SIP revision from October 15, 2021 to December 9, 2021. The

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<sup>9</sup> 87 FR 30437, May 19, 2022.

<sup>10</sup> Final Formal submission on May 24, 2022.

State received ten comments during the 2019 public notice. The State received four comments on the 2021 public notice. The EPA finds Missouri has adequately addressed the comments received in its submissions. Please see the TSD for our proposal for more discussion on Missouri's responses to comments.<sup>11</sup> In addition, as explained in our proposal and in more detail in the TSD which is part of this docket, the revision meets the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.<sup>12</sup>

## **VI. The EPA's Response to Comments**

The public comment period on the EPA's proposed rule opened May 19, 2022, the date of its publication in the *Federal Register* and closed on June 21, 2022. During this period, the EPA received one comment letter from an anonymous commenter.

*Comment 1:* The commenter states that the state lacks the legal authority or rule necessary to implement and enforce the vehicle coverage requirement.

*Response 1:* The EPA disagrees. The Missouri Department of Natural Resources (MoDNR) has legal authority to implement and enforce the vehicle inspection and maintenance program as stated in 10 CSR 10-5.381, which it submitted on March 2, 2022, and May 24, 2022. The MoDNR relies on the Missouri Department of Revenue (MDOR) for registration denial. MoDNR is identified as the agency responsible for implementing the GVIP along with the MDOR

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<sup>11</sup> See [www.regulations.gov](https://www.regulations.gov), document id: EPA-R07-OAR-2022-0419-0013.

<sup>12</sup> 87 FR 30437, May 19, 2022.

for registration data and enforcement of registration denial. 10  
CSR 10-5.381 (2)(S), specifies MDOR as responsible for  
registration denial.

In Missouri's December 14, 2007, submittal, approved March 3, 2015, Missouri states that MDOR handles registration denial and "all remaining I/M program enforcement actions are the responsibility of MDNR." State law provides that any person who violates a requirement of sections 643.300 to 643.355 or a rule promulgated to enforce sections 643.300 to 643.355 shall be guilty of either an infraction for the first offense, a class C misdemeanor for the second offense, or a class B misdemeanor for any subsequent offenses (subsections 1-6 section 643.355, RSMo). State law also provides that any person who violates any procedural requirement of sections 643.300 to 643.355 shall be subject to a fine of not less than five times the amount of the fee charged pursuant to section 643.350 or one hundred dollars, whichever is greater (subsection 7 of section 643.355, RSMo). The state has the legal authority necessary to implement the I/M program.

*Comment 2:* The commenter claims the SIP lacks detailed description of the number and types of vehicles to be covered by the program, how many vehicles registered in Franklin County may ultimately be exempt from or subject to the I/M requirements, and a description of and accounting for all classes of exempt vehicles.

*Response 2:* The EPA disagrees. 10 CSR 10-5.381(1)(A) describes the number and types of vehicles to be covered by the program. 10 CSR 10-5.381 (1)(A) states that all vehicles either registered in the St. Louis Area or primarily operated in the Area unless exempted by 10 CSR 10-5.381 (1)(B) are covered by the rule. 10 CSR 10-5.381 (1)(B) exempts the classes of:

- Heavy duty gasoline and diesel vehicles,
- Light duty gasoline and diesel vehicles manufactured prior to 1996,
- Motorcycles,
- Motorized tricycles,
- 100% electric powered vehicles,
- Plug-in hybrid vehicles,
- 100% hydrogen fueled vehicles,
- Vehicles fueled by something other than:
  - gasoline,
  - E10-E85, or
  - diesel,
- Vehicles registered in the St. Louis Area but receive an out of area exemption (for situations like a person off to college or deployed as a member of the armed forces),
- Registered historic vehicles,
- School buses,
- Tactical military vehicles, and

- Specially constructed vehicles.

10 CSR 10-5.381 (B.) also has four exemptions for either low total mileage, low usage, low age, or short-term visit, work, or deployment to a federal installation.

While the types of vehicles covered is important for implementation of rule, the purpose of the EPA requiring the State to provide the numbers and types of vehicles either included or exempted is to facilitate emission calculations either for a program demonstration on establishment<sup>13</sup> or CAA section 110(l) demonstration that EPA's approval of a SIP revision would not interfere with maintenance or attainment of the NAAQS, reasonable further progress, or any other applicable CAA requirement. As discussed in our proposal, Missouri submitted a CAA section 110(l) demonstration to EPA based on MOVES emission modeling.

Missouri in their submittal included the following data on the number of vehicles.<sup>14</sup>

**Table 1: Light Duty Vehicle Population**

Year	Franklin County	Jefferson County	St. Charles County	St. Louis County	St. Louis City
2017	109,775	222,144	369,863	966,358	194,677
2020	120,300	241,869	400,161	1,038,921	207,875
2025	141,326	281,277	460,691	1,183,889	234,632
2030	167,655	330,622	536,485	1,365,411	257,972

<sup>13</sup> It is possible for an established I/M program to need to do a program demonstration again, most often based on a new designation of Moderate or higher nonattainment.

<sup>14</sup> See the November 12, 2019, Missouri submittal, Attachment 3. Attachment 3 also contains population numbers for other categories of vehicles. The numbers in Table 1 are the sum of passenger car, passenger truck, and light commercial truck. For St. Louis City, Jefferson County, St Charles County, St. Louis County, these are the maximum of the subject vehicle population.



Missouri also provided vehicle age distributions. Missouri made the most conservative assumption that all Franklin County vehicles will be exempted from the GVIP. Specifically, Missouri used the maximum number of vehicles that could be exempted - the entire light duty Franklin County vehicle population. The EPA finds that using this assumption was appropriate. Missouri's modeling demonstration of all light duty vehicles in Franklin County not participating in the I/M program increased emissions, and is consistent with the I/M requirements of 40 CFR 51.356(b). Missouri provided the requisite MOVES modeling demonstration to analyze the projected emissions change associated with exempting these vehicles from the I/M program. The EPA review of Missouri's analysis is in the Technical Support Document (TSD) in the docket to this action. The EPA believes MoDNR's analysis correctly accounts for all potential vehicle emissions that may occur from the removal of Franklin County from the I/M program. The modeling demonstrates that the removal of Franklin County from the I/M program will not interfere with attainment or maintenance of the NAAQS, reasonable further progress or any other CAA requirement consistent with the requirements of CAA section 110(1).

*Comment 3:* The commenter states the SIP lacks a plan for how Franklin County registered vehicles that are primarily operated in the I/M coverage area are to be identified, who (i.e., registration authorities or individual motorists) will be responsible for determining whether a vehicle registered in

Franklin County "is primarily operated" in the St. Louis nonattainment area and thus subject to the GVIP, how Missouri, the EPA, or individual citizens can determine which Franklin County vehicles will continue to be subject to the I/M requirements, and how the determinations will be documented. The commenter references a 1992 *Federal Register* document regarding how I/M programs should easily identify vehicles.

*Response 3:* Vehicle owners have a responsibility to comply with 10 CSR 10-5.381. The Missouri Department of Natural Resources relies on tips to learn about non-compliant individual private owners and has the authority to enforce the rule.

The core of the SIP revision is the removal of Franklin County registered vehicles from the I/M program, and therefore, has the effect of defining Franklin County registered vehicles as "elsewhere registered" vehicles. As discussed in more detail in response to Comment 2, Missouri did not rely on any emission reductions from Franklin County registered vehicles for attainment or reasonable further progress purposes in their CAA section 110(l) demonstration. Because Missouri's demonstration shows they will not interfere with attainment or maintenance of the NAAQS, reasonable further progress, or any other CAA requirement without claiming emissions reductions from elsewhere registered vehicles, Missouri's existing steps to identify and document elsewhere registered vehicles that primarily operate in the area are acceptable.

The commenter references a 1992 *Federal Register* document regarding how I/M programs should easily identify vehicles (57 FR 52950, November 5, 1992). In the referenced document, the EPA stated that an alternative to registration denial for vehicles registered in the coverage area needs to "easily identify the subject vehicles." Registration denial is our preferred method for identifying and enforcing I/M on vehicles registered in the I/M coverage area. Registration denial works by having the state registration agency only register a vehicle in the I/M coverage area if that vehicle has passed an I/M check or is exempt. Registration denial continues to be an acceptable enforcement method for vehicles registered in the area. For any I/M program, the vehicles registered outside of the county are not as easy to identify. However, as shown above, exempting all vehicle in Franklin County from I/M requirements will not interfere with attainment or maintenance of the NAAQS, reasonable further progress, or any other CAA requirement.

*Comment 4:* The commenter asserts the proposed Missouri SIP provision turns on when 51% of annual mileage of a vehicle registered in Franklin County occur in the coverage area.

*Response 4:* The EPA disagrees. The proposed action does not turn on when 51% of annual mileage of a vehicle registered in Franklin County occurs in Jefferson County, St. Charles County, St. Louis County, and the City of St. Louis. The proposed action is based on the EPA's evaluation under section 110(1) of the CAA, of the removal of Franklin County registered vehicles from

the I/M program, with the caveat that if Franklin County registered vehicles are primarily operated in the I/M coverage area, then those vehicles are also required to meet I/M requirements. The elsewhere-registered provisions in 10 CSR 10-5.381 (1)(A)2., 3., and 4 are a previously SIP-approved part of Missouri's GVIP plan and implementing regulation.

The language, in 10 CSR 10-5.381 (1)(B)15., "exempt unless the vehicle is primarily operated in the area of Jefferson County, St. Charles County, St. Louis County, and the City of St. Louis," makes the Franklin County registered vehicle exemption conform to the elsewhere provisions in 10 CSR 10-5.381 (1)(A)2., 3., and 4. The language "a vehicle is primarily operated in the area if at least fifty-one percent (51%) of the vehicle's annual miles are in the area" is the same language used to define "primarily operated" throughout the rule. Missouri included the phrase "primarily operated" to the newly added exemption at 10 CSR 10-5.381 (1)(B)15. to conform with the previously SIP-approved provisions in 10 CSR 10-5.381 (1)(A)2., 3., and 4. Franklin County is no longer part of the I/M coverage area and is now defined as "elsewhere." As stated above, Missouri's 110(1) demonstration shows that the revisions will not interfere with attainment of the NAAQS.

*Comment 5:* The commenter states Missouri needs to ensure that all Franklin County vehicle owners are aware of the law and their potential responsibilities under it.

*Response 5:* Missouri has met the public notice provisions required by the CAA. The rules are published on Missouri's Secretary of State website.<sup>15</sup>

*Comment 6:* The commenter states that the SIP submission appears to be requesting approval of 10 CSR 10-5 as revised generally and thus is arguably being submitted for reapproval of 10 CSR 10-5.381(1)(A)(3). While 10 CSR 10-5.381(1)(A)(3) was previously approved into the SIP and has not been specifically revised in this submission, it presents the same implementation and enforceability issues regarding "primarily operated" as noted for above for 10 CSR 10-5.381(1)(B)(15). The commenter states that the EPA should not re-approve 10 CSR 10-5.381(1)(A)(3) into the Missouri SIP.

*Response 6:* The EPA disagrees. Missouri did not request such an action and therefore the EPA is not reapproving all of 10 CSR 10-5<sup>16</sup>. Further, Missouri did not request, and the EPA is not reapproving, all of 10 CSR 10-5.381. Consistent with Missouri's submittal, the EPA solicited comment on our proposed approval of the substantive and administrative revisions detailed in the proposal and the TSD.

## **VII. What Action is the EPA Taking?**

The EPA is taking final action to approve revisions to the Missouri SIP received on November 12, 2019, March 2, 2022, and

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<sup>15</sup> <https://www.sos.mo.gov/adrules/csr/current/10csr/10csr>

<sup>16</sup> We do note the commenter may have made a typographical error in stating "10 CSR 10-5". Regardless, even if the commenter meant some other specific part of 10 CSR 10-5, such specificity does not change our answer or our approval of the SIP submission.

May 24, 2022. The EPA is approving portions of the November 12, 2019 GVIP Plan, by approving the removal of Franklin County from the I/M program, and fully approving the revisions to 10 CSR 10-5.381 received on March 2 and May 24, 2022. The EPA is not taking action on the remainder of the November 12, 2019 GVIP Plan, at this time.

### **VIII. Environmental Justice Considerations**

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address ``disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as ``the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' The EPA further defines the term fair treatment to mean that ``no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.'' <sup>17</sup> The EPA is providing additional analysis of environmental justice associated with

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<sup>17</sup> <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.

this action for the purpose of providing information to the public and not as a basis of our final action.

The EPA utilized the EJSCREEN tool to evaluate environmental and demographic indicators within Franklin County, Jefferson County, St. Charles County, St. Louis County, and St. Louis City. The tool outputs reports are contained in the docket for this action. Looking specifically at Franklin County, the EPA's EJSCREEN tool demonstrates that demographic indicators are consistent with national averages, however there are vulnerable populations in Franklin County including low-income populations and persons over 64 years of age. In addition, emissions from Boles Township impact populations in the other portions of the non-attainment area. St. Louis City has demographic indicators significantly above national averages for low-income and minority populations. While the other counties' demographic indicators are consistent with or lower than national averages, there are vulnerable populations in these Counties including low-income populations and persons over 64 years of age.

When the EPA reviews a state's desired change to their SIP for a NAAQS, the CAA requires the EPA to ensure that the change will not cause "backsliding" of the air quality or delaying attainment of air quality. SIP revisions address environmental justice concerns by ensuring that the public is properly informed about the Plan and regulations to attain and maintain air quality. As described in our proposal<sup>18</sup>, the EPA finds these

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<sup>18</sup> 87 FR 30437, May 19, 2022.

supplemental emission controls provided by Missouri are sufficient to address the projected emissions increase from ceasing GVIP in Franklin County.

This action addresses the EPA's determination for the removal of Franklin County registered vehicles from the GVIP, unless they are predominately operated in the rest of the St. Louis Area. This action approves the removal of these Franklin County registered vehicles from the GVIP and finds such removal will not have an adverse impact to air quality or interfere with attainment or maintenance of the NAAQS. For these reasons, this action does not result in disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples.

## **IX. Incorporation by Reference**

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Missouri 10 CSR 10-5.381 discussed in Section IV. of this preamble and as set forth below in the amendments to 40 CFR part 52. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).



Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>19</sup>

#### **X. Statutory and Executive Order Reviews**

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

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<sup>19</sup> 62 FR 27968, May 22, 1997.

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The basis for this determination is contained in Section VIII of this action, "Environmental Justice Considerations."
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has

jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

- This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).
- Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

September 6, 2022.

Meghan A. McCollister,  
*Regional Administrator,*  
*Region 7.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart AA-Missouri**

2. In §52.1320:

a. The table in paragraph (c) is amended by revising the entry "10-5.381".

b. The table in paragraph (e) is amended by revising the entry "(38)" and adding the entry "(84)" in numerical order.

The revisions and addition read as follows:

**§52.1320 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA-Approved Missouri Regulations**

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 5 - Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area				
* * * * *				
10-5.381	On-Board Diagnostic Motor Vehicle Emissions Inspection	5/30/2022	[insert date of publication in the Federal Register], [insert Federal Register citation]	
* * * * *				

\* \* \* \* \*

(e) \* \* \*

# EPA-Approved Missouri Nonregulatory SIP Provisions

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				
(38) Implementation plan for the Missouri inspection maintenance program	Jefferson County	11/12/1999	5/18/2000, 65 FR 31480	[MO 096-1096b; FRL-6701-6]  Approved for Jefferson County only.
* * * * *				
(84) Implementation plan for the Missouri inspection maintenance program	St. Charles County, St. Louis County, and St. Louis City	11/12/2019 3/2/2022	[insert date of publication in the Federal Register], [insert Federal Register citation]	[EPA-R07-OAR-2022-0419; FRL-9830-02-R7]. Approved for St. Charles County, St. Louis County, and St. Louis City and removal of Franklin County. No action on Jefferson County. Please see item (38) of this paragraph.

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